

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

This declaration is of the following type:

- ☒ original
- ☐ divisional
- ☐ continuation
- ☐ continuation-in-part

### INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

### TITLE OF INVENTION

METHOD AND APPARATUS FOR PROVIDING A MENU STRUCTURE FOR AN  
INTERACTIVE INFORMATION DISTRIBUTION SYSTEM

### SPECIFICATION IDENTIFICATION

The specification of which:

- ☐ is attached hereto
- ☒ was filed on December 3, 1997, under Serial No. 08/984,427, executed on even date herewith; or
- ☐ Express Mail No. \_\_\_\_\_ (as Serial No. not yet known)
- ☐ and was amended on \_\_\_\_\_ (if applicable)
- ☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_

### ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56, and which is material to the examination of this application; namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

- ☐ In compliance with this duty, there is attached an Information Disclosure Statement in accordance with 37 CFR §1.98.

### PRIORITY CLAIM (35 U.S.C. §119)

I hereby claim priority benefits under Title 35, United States Code, §119, of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America or of any United States Provisional Application(s) listed below, and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one

country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

☐ No such applications have been filed.

☒ Such applications have been filed as follows:

A. Prior foreign/PCT/provisional application(s) filed within 12 mos. (6 mos. for design) prior to this application, and any priority claims under 35 U.S.C. §119

<u>Country/PCT</u>	<u>Application No</u>	<u>Date Filed</u>	<u>Priority Claimed</u>
U.S.	60/034,490	1/13/97	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

B. All foreign application(s), if any, filed more than 12 mos. (6 mos for design) prior to this U.S. application

Country:

Application No:

Filing date:

**PRIOR U.S. APPLICATION(S) FOR WHICH BENEFIT  
UNDER 35 U.S.C. §120 IS CLAIMED**

<u>Serial No.</u>	<u>Filing Date</u>	<u>Status</u>		
		<u>Patented</u>	<u>Pending</u>	<u>Abandoned</u>
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned

**POWER OF ATTORNEY**

I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Charles Lee Thomason  
Raymond R. Moser Jr.  
Joseph Pagnotta  
Kin-Wah Tong  
Eamon J. Wall

Registration No. 31,431  
Registration No. 34,682  
Registration No. 39,322  
Registration No. 39,400  
Registration No. 39,414



26291

PATENT TRADEMARK OFFICE

Send correspondence to:

Thomason & Moser  
The Galleria -- 2d Floor  
2-40 Bridge Ave.  
Post Office Box 8160  
Red Bank, NJ 07701

Direct telephone calls to:

Eamon J. Wall  
732-530-9404

**DECLARATION**

*I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these*

*statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.*

Full name of sole or first inventor: Donald Gordon

Inventor's signature: Donald Gordon Date: 10 February 98  
Residence: 216 Locust Street, Pacific Grove, CA 93950  
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of second inventor: Christopher Goode

Inventor's signature: Christopher Goode Date: 2/5/98  
Residence: 722 Creek Drive, Menlo Park, CA 94025  
Post Office Address: same as above

Country of Citizenship: Australia

Full name of third inventor: Philip A. Thomas

Inventor's signature: Philip A Thomas Date: 2/25/98  
Residence: 1410 Cedarmeadow Court, San Jose, CA 95131  
Post Office Address: same as above

Country of Citizenship: United Kingdom  
citizen of U.S.

Full name of fourth inventor: Mark D. Conover

Inventor's signature: Mark D Conover Date: 5 Feb 98  
Residence: 10721 Wunderlich Drive, Cupertino, CA 95014  
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of fifth inventor: Brooks Cole

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: 65 Third Street, Point Reyes Station, CA 94956  
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of sixth inventor:

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: \_\_\_\_\_  
Post Office Address: \_\_\_\_\_

Country of Citizenship:

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			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

B. All foreign application(s), if any, filed more than 12 mos. (6 mos for design) prior to this U.S. application

Country:  
Application No:  
Filing date:

**PRIOR U.S. APPLICATION(S) FOR WHICH BENEFIT  
UNDER 35 U.S.C. §120 IS CLAIMED.**

<u>Serial No.</u>	<u>Filing Date</u>	<u>Status</u>		
		<u>Patented</u>	<u>Pending</u>	<u>Abandoned</u>
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
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*statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.*

Full name of **sole or first** inventor: Donald Gordon

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: 216 Locust Street, Pacific Grove, CA 93950  
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of **second** inventor: Christopher Goode

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: 722 Creek Drive, Menlo Park, CA 94025  
Post Office Address: same as above

Country of Citizenship: Australia

Full name of **third** inventor: Philip A. Thomas

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: 1410 Cedarmeadow Court, San Jose, CA 95131  
Post Office Address: same as above

Country of Citizenship: United Kingdom

Full name of **fourth** inventor: Mark D. Conover

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: 10721 Wunderlich Drive, Cupertino, CA 95014  
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of **fifth** inventor: Brooks Cole

Inventor's signature: *[Signature]* Date: 8/19/98  
Residence: 65 Third Street, Point Reyes Station, CA 94956  
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of **sixth** inventor:

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: \_\_\_\_\_  
Post Office Address: \_\_\_\_\_

Country of Citizenship:

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY  
STATUS (37 CFR 1.9(f) AND 1.27 (c)) - SMALL BUSINESS CONCERN**

Docket No.  
533/006

Serial No.

08/984,427

Filing Date

12/3/97

Patent No.

Issue Date

Applicant/ **Donald Gordon, Christopher Goode, Philip A. Thomas, Mark D. Conover, Brooks Cole**  
Patentee:

Invention:

**METHOD AND APPARATUS FOR PROVIDING A MENU STRUCTURE FOR AN INTERACTIVE INFORMATION  
DISTRIBUTION SYSTEM**

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:
- ☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: **DIVA Systems Corporation**ADDRESS OF CONCERN: **333 Ravenswood Avenue, Menlo Park, California 94025**

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the above identified invention described in:

- ☐ the specification filed herewith with title as listed above.
- ☒ the application identified above.
- ☐ the patent identified above.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed on the next page and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☒ no such person, concern or organization exists.  
☐ each such person, concern or organization is listed below.

FULL NAME  
ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME  
ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME  
ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME  
ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Stephanie Storms  
 TITLE OF PERSON SIGNING  
 OTHER THAN OWNER: Vice President  
 ADDRESS OF PERSON SIGNING: DIVA Systems Corporation  
333 Ravenswood Avenue  
Menlo Park, California 94025

SIGNATURE:

Stephanie Storms

DATE:

2/11/98